

Introduced by Senator Morrow

February 13, 2004

An act to amend Section 11205 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1269, as introduced, Morrow. Traffic violators: court services fees.

Existing law authorizes the courts to utilize the services of a nongovernmental agency for traffic violator school administration and monitoring services and to charge traffic violators a fee to defray the costs incurred by the agency for providing those services. The amount of the fee is subject to the approval and is regulated by the court. Existing law allows a court to use the court assistance program, or CAP, as defined, to assist the court in performing services, as defined, relating to the processing of traffic violators.

This bill would instead allow a court that has a contract with the CAP to charge the traffic violator a fee to defray the costs incurred by the court for the services that the CAP performs for the court. The bill would limit the amount of the fee that a court may charge to the actual costs incurred by the CAP or \$6, whichever is less. The bill would allow a court to charge a fee in excess of \$6 if the increased fee amount is approved by the Judicial Council, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



The people of the State of California do enact as follows:

SECTION 1. Section 11205 of the Vehicle Code, as amended by Section 1 of Chapter 518 of the Statutes of 2003, is amended to read:

11205. (a) The department shall publish a traffic violator school referral list of all the approved locations of traffic violator school classes, by school name, to be transmitted to each municipal court in the state, and to each superior court in a county in which there is no municipal court, in sufficient quantity to allow the courts to provide a copy to each person referred to traffic violator school. The list shall be revised at least twice annually and transmitted to the courts by the first day of January and the first day of July. It shall include all of the following:

(1) The name of each traffic violator school or, pursuant to subdivision (d), the general term “traffic violator school” followed by its traffic violator school license number.

(2) A phone number used for student information.

(3) The county and the judicial district.

(4) The cities where classes are available.

(b) Each traffic violator school owner shall be permitted one school name in a judicial district.

(c) The list shall be organized alphabetically in sections for each county and subsections for each judicial district within the county. The order of the names within each judicial district shall be random pursuant to a drawing or lottery conducted by the department.

(d) On the list prepared by the department under subdivision (c), each traffic violator school shall appear by name unless a court determines, pursuant to subdivision (e), that a name is inappropriate and directs the department to delete the name and instead list the school by the term “traffic violator school” followed by its license number. The deletion of the name of a school from the list for a judicial district shall not affect whether that school appears by name on the list for any other judicial district within the state. In making a determination under this subdivision regarding the deletion of a name from the list, the court shall use as its criteria whether the name is misleading to the public, undignified, or implies that the school offers inducements

1 or premiums which derogate or distort the instructional intent of
2 the traffic safety program.

3 (e) When the department transmits any referral list pursuant to
4 subdivision (a), each court shall do all of the following:

5 (1) Within 30 days of receipt of the list, notify the school owner
6 of any school name that the court intends to remove from the
7 referral list.

8 (2) Within 60 days of receipt of the list, make every effort to
9 schedule, conduct, and complete a hearing for the school owner,
10 or a representative, if requested, at which the sole issue shall be
11 whether the name violates the standards set forth in subdivision
12 (d). A substitute name may be submitted to the court at the
13 conclusion of the hearing, pursuant to subdivision (h).

14 (3) Within 10 days of the completion of that hearing, notify the
15 department and school owner of any school names it intends to
16 remove from the referral list.

17 (f) In order for a court action to delete a school name from the
18 next referral list published by the department, the department shall
19 receive court notification no later than 90 days prior to publication
20 of the next referral list and, absent a direct order by the appellate
21 division of the superior court or a court of higher jurisdiction, the
22 department shall not fail to publish a referral list on the grounds
23 that there exists pending litigation or appeals concerning the lists.

24 (g) Any court notifying the department of a school name it
25 intends to remove from the list, pursuant to this section, shall
26 provide the school owner with the name of the judge making those
27 findings.

28 (h) When a court informs a school owner, pursuant to
29 subdivision (e), of its decision to delete the name of a traffic
30 violator school from that judicial district's subsection of the
31 department's traffic violator school referral list, the owner may, on
32 a form approved by the department, submit a substitute name to the
33 court and request approval of that name. The court shall, within 30
34 days of receipt of the request for approval of the substitute name,
35 inform the department and the school owner, on a form approved
36 by the department, of its approval or rejection of the substitute
37 name. The school owner may continue this appeal process for
38 approval of a substitute name until the court determines that the
39 name does not violate the standard set forth in subdivision (d). A
40 name approval in a judicial district shall not affect the school's

1 name or listing in any other district in the state. The department
2 shall not impose any fee or license requirement under this
3 subdivision.

4 (i) If a court fails to act within 30 days on a request of a traffic
5 violator school owner, pursuant to subdivision (h), the proposed
6 substitute name shall be deemed approved by the court for the
7 purposes of the traffic violator school referral list.

8 (j) (1) Every application filed with the department on and after
9 June 1, 1991, for an original license by a traffic school owner or
10 for approval to conduct classes in a judicial district not previously
11 approved, shall be accompanied by the approval of the court in
12 each judicial district proposed for those operations of the name of
13 the school, on a form approved by the department for that purpose.
14 For the approved name to be included in the traffic violator school
15 referral list, the form shall be received by the department no later
16 than 90 days prior to publication.

17 (2) When a court disapproves a school name pursuant to this
18 subdivision, the court shall notify the school owner within 30 days
19 of its disapproval and schedule a hearing for that school owner, or
20 a representative, if requested, at which the sole issue shall be
21 whether the name violates the standards set forth in subdivision
22 (d). A substitute name may be submitted to the court at the
23 conclusion of the hearing, pursuant to subdivision (h).

24 (3) The court shall make every effort to schedule, conduct, and
25 complete a hearing within 60 days of receipt of the school owner's
26 request for a school name approval. A name approval in a judicial
27 district shall not affect the school's name or listing in any other
28 district in the state. A change in physical location by a school
29 within a judicial district shall not require approval pursuant to this
30 subdivision.

31 (k) The department shall publish a list of the owners of traffic
32 violator schools. One copy shall be provided to each municipal
33 court in the state, and to each superior court in a county in which
34 there is no municipal court. This list shall be revised at least twice
35 annually and transmitted to the courts by the first day of January
36 and the first day of July. This list shall include all of the following:

- 37 (1) The name of each school, grouped by owner.
38 (2) The business office address.
39 (3) The business office telephone number.
40 (4) The license number.



(5) The owner's name.

(6) The operator's name.

(l) Except as otherwise provided in subdivision (d) of Section 42005, the court shall use either the current list of traffic violator schools published by the department when it orders a person to complete a traffic violator school pursuant to subdivision (a) or (b) of Section 42005 or, when a court utilizing a nonprofit agency for traffic violator school administration and monitoring services in which all traffic violator schools licensed by the department are allowed the opportunity to participate, a statewide referral list may be published by the nonprofit agency and distributed by the court. The agency shall monitor each classroom location situated within the judicial districts in which that agency provides services to the courts and is represented on its referral list. The monitoring shall occur at least once every 90 days with reports forwarded to the department and the respective courts on a monthly basis.

~~(m) The court may charge a traffic violator a fee to defray the costs incurred by the agency for the monitoring reports and services provided to the court. The court may delegate collection of the fee to the agency. Fees shall be approved and regulated by the court. Until December 31, 1996, the fee shall not exceed the actual cost incurred by the agency or five dollars (\$5), whichever is less.~~

(m) (1) A court that has a contract with a court assistance program (CAP), as defined in subdivision (a) of Section 11205.2, may charge the traffic violator a fee to defray the costs incurred by the court for the services that the CAP performs for the court. Except as provided in paragraph (3), the fee charged by the court may not exceed the actual costs incurred by the CAP or six dollars (\$6), whichever is less. If a fee is imposed, it shall be collected by the court from the traffic violator. The fee shall be limited to an amount necessary to defray the costs incurred by the CAP to provide clerical services relating to the processing of traffic violators at, and for, a court, and to inspect, monitor, and audit traffic violator schools. Except as set forth in this chapter, a court may not levy any additional fee on a traffic violator who is ordered or elects to attend a department licensed traffic violator school program.

(2) Any fee authorized under this subdivision shall be applicable only in those cases in which a traffic violator has

1 *agreed to attend or has been ordered to attend a program of traffic*
2 *safety instruction pursuant to Section 42005. The fee does not*
3 *apply to those nontraffic violator persons who elect to attend a*
4 *traffic violator school under Section 11200.*

5 *(3) If a court determines that a fee in excess of the six dollar (\$6)*
6 *limit for the services described in paragraph (1) is necessary, the*
7 *court may submit financial data and written justification to the*
8 *Judicial Council for the proposed higher fee and obtain the*
9 *Judicial Council's written approval prior to imposing that higher*
10 *fee. The supporting documentation shall include, but is not limited*
11 *to, the court's request for proposals, copies of the bids submitted*
12 *by any potential CAP, and the basis and supporting evidence for*
13 *reasons why the proposed fee should be higher than that required*
14 *by other courts using a CAP for these same types of services. All*
15 *information submitted to the Judicial Council shall be public*
16 *record and shall be provided to any person upon request. A notice*
17 *of any request for a fee increase shall be provided to any person*
18 *who has given advance notice to the Judicial Council that a notice*
19 *be provided. The Judicial Council may charge the requester a fee*
20 *for providing this information. This fee is limited to the Judicial*
21 *Council's postage and photocopying expenses.*

22 *(4) The court shall reimburse the Judicial Council for the costs*
23 *incurred by the Judicial Council under paragraph (3) from*
24 *revenue collected by the court under paragraph (1).*

25 *(n) If any provision of subdivision (d) or (e), as added by*
26 *Section 4 of Assembly Bill 185 of the 1991–92 Regular Session,*
27 *or the application thereof to any person, is held to be*
28 *unconstitutional, this section is repealed on the date the decision*
29 *of the court so holding becomes final.*

30 SEC. 2. Section 11205 of the Vehicle Code, as amended by
31 Section 456 of Chapter 931 of the Statutes of 1998, is amended to
32 read:

33 11205. (a) The department shall publish semiannually, or
34 more often as necessary to serve the purposes of this act, a list of
35 all traffic violator schools which are licensed pursuant to this
36 section. The list shall identify classroom facilities within a judicial
37 district that are at a different location from a licensed school's
38 principal facility. The department shall transmit the list to each
39 municipal court and to each superior court in a county in which
40 there is no municipal court, with a sufficient number of copies to

1 allow the courts to provide one copy to each person referred to a
2 licensed traffic violator school. The department shall, at least
3 semiannually, revise the list to ensure that each court has a current
4 list of all licensed traffic violator schools.

5 (b) Each licensed traffic violator school owner shall be
6 permitted one school name per judicial district.

7 (c) The referral list shall be organized alphabetically, in
8 sections for each county, and contain subsections for each judicial
9 district within the county. The order of the names within each
10 judicial district shall be random pursuant to a drawing or lottery
11 conducted by the department.

12 (d) Except as otherwise provided in subdivision (d) of Section
13 42005, the court shall use either the current referral list of traffic
14 violator schools published by the department when it orders a
15 person to complete a traffic violator school pursuant to subdivision
16 (a) or (b) of Section 42005 or, when a court utilizing a nonprofit
17 agency for traffic violator school administration and monitoring
18 services in which all traffic violator schools licensed by the
19 department are allowed the opportunity to participate, a statewide
20 referral list may be published by the nonprofit agency and
21 distributed by the court. The agency shall monitor each classroom
22 location situated within the judicial districts in which that agency
23 provides services to the courts and is represented on its referral list.
24 The monitoring shall occur at least once every 90 days with reports
25 forwarded to the department and the respective courts on a
26 monthly basis.

27 ~~(e) The court may charge a traffic violator a fee to defray the~~
28 ~~costs incurred by the agency for the monitoring reports and~~
29 ~~services provided to the court. The court may delegate collection~~
30 ~~of the fee to the agency. Fees shall be approved and regulated by~~
31 ~~the court. Until December 31, 1996, the fee shall not exceed the~~
32 ~~actual cost incurred by the agency or five dollars (\$5), whichever~~
33 ~~is less.~~

34 *(e) (1) A court that has a contract with a court assistance*
35 *program (CAP), as defined in subdivision (a) of Section 11205.2,*
36 *may charge the traffic violator a fee to defray the costs incurred by*
37 *the court for the services that the CAP performs for the court.*
38 *Except as provided in paragraph (3), the fee charged by the court*
39 *may not exceed the actual costs incurred by the CAP or six dollars*
40 *(\$6), whichever is less. If a fee is imposed, it shall be collected by*

1 the court from the traffic violator. The fee shall be limited to an
2 amount necessary to defray the costs incurred by the CAP to
3 provide clerical services relating to the processing of traffic
4 violators at, and for, a court, and to inspect, monitor, and audit
5 traffic violator schools. Except as set forth in this chapter, a court
6 may not levy any additional fee on a traffic violator who is ordered
7 or elects to attend a department licensed traffic violator school
8 program.

9 (2) Any fee authorized under this subdivision shall be
10 applicable only in those cases in which a traffic violator has
11 agreed to attend or has been ordered to attend a program of traffic
12 safety instruction pursuant to Section 42005. The fee does not
13 apply to those nontraffic violator persons who elect to attend a
14 traffic violator school under Section 11200.

15 (3) If a court determines that a fee in excess of the six dollar (\$6)
16 limit for the services described in paragraph (1) is necessary, the
17 court shall submit financial data and written justification to the
18 Judicial Council for the proposed higher fee and obtain the
19 Judicial Council's written approval prior to imposing that higher
20 fee. The supporting documentation shall include, but is not limited
21 to, the court's request for proposals, copies of the bids submitted
22 by any potential CAP, and the basis and supporting evidence for
23 reasons why the proposed fee should be higher than that required
24 by other courts using a CAP for these same types of services. All
25 information submitted to the Judicial Council shall be public
26 record and shall be provided to any person upon request. A notice
27 of any request for a fee increase shall be provided to any person
28 who has given advance notice to the Judicial Council that a notice
29 be provided. The Judicial Council may charge the requester a fee
30 for providing this information. This fee is limited to the Judicial
31 Council's postage and photocopying expenses.

32 (4) The court shall reimburse the Judicial Council for the costs
33 incurred by the Judicial Council under paragraph (3) from
34 revenue collected by the court under paragraph (1).

35 (f) If any provision of subdivision (d) or (e) of Section 11205,
36 as added by Section 4 of Assembly Bill 185 of the 1991–92
37 Regular Session, or the application thereof to any person, is held
38 to be unconstitutional, that Section 11205 is repealed on the date

- 1 the decision of the court so holding becomes final, and on that date,
- 2 this section shall become operative.

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